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28E-FILED on 01/26/09IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

JOE BLACK, et al.

Plaintiff,

v.

CONNIE WHITE, et al.,

Defendants.

No. C-08-04734 RMW

ORDER TO SHOW CAUSE

Plaintiff Joe Black ("Black") brings this lawsuit under a pseudonym, seeking a preliminary injunction and damages. Black's argument is, in brief, that the constitutional right that a woman has to choose whether to terminate her pregnancy also permits a man who would have so chosen to avoid paying child support for his children.

Constitutional protection of a woman's right to terminate her pregnancy was first articulated in the landmark case of *Roe v. Wade*, 410 U.S. 113 (1973). Black argues in his complaint that the equal protection clause mandates that *Roe's* right be afforded to men. Complaint 4. This argument misunderstands the basis for *Roe's* holding. As the Sixth Circuit wrote in a case directly on point, "The woman's right to abortion is not solely, or even primarily, based upon her right to choose not to be a mother after engaging in consensual sexual intercourse. Rather, the right to abortion, as articulated in *Roe*, derives from the woman's right to bodily integrity and her privacy interest in

1 protecting her own physical and mental health." *Dubay v. Wells*, 506 F.3d 422, 430 (6th Cir. 2007).

2 There is thus no basis in the law for Black's equal protection claim.

3 It also appears that Black has not properly served any defendant as required by Rule 4 of the
4 Federal Rules of Civil Procedure. Nor, apparently, has he paid the required filing fee. On October
5 28, 2008, the court denied Black's request to proceed in forma pauperis and ordered that, unless the
6 \$350.00 filing fee was paid by November 26, 2008, the action would be dismissed. Order Re:
7 Application to Proceed In Forma Pauperis (Docket No. 9).

8 The court thus orders Joe Black to appear at 9:00 a.m. on February 20, 2009 and show cause
9 why his complaint should not be dismissed for failure to state a claim upon which relief can be
10 granted and failure to pay the \$350 filing fee.

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DATED: 01/26/09



RONALD M. WHYTE
United States District Judge

1 **Notice of this document has been sent to:**

2 Joe Black
3 327 Blossom Valley Drive
4 Los Gatos, CA 95032-3910

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7 **Dated:** 01/26/09

JAS
Chambers of Judge Whyte

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